

Sem II
Indian Government and Politics
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1. The goal Envisaged by Indian constitution is that of a welfare state and the establishment of a socialist state.
2. Critically examine d relationship of preamble, from, directive principles as determined by judiciary?
3. Explain the main principles embodied in preamble to constitution of India. What is their significance. Do you think that they are the political horoscopes of the country? Discuss.

Preamble

What is preamble? Or its significance.

- The preamble to our constitution serves two purpose:
 1. Indicates **source** from which the constitution derives its authority.
 2. States the **objects** which the constitution seeks to establish and promote.
 3. Tells about the **nature of Indian state**. From this point of view India, emerges as secular, democratic, republic, sovereign, respects justice, liberty, equality and fraternity among people. And it promotes international peace and cooperation.
 4. It tells about the **date of adoption and enactment** of Indian constitution.
 5. Guides our policymakers to frame laws according to the preamble.
 6. Aids the legal interpretation of constitution where the language is found to be ambiguous.
 7. Talks about the **aims and aspirations** embodied in our constitution.
 8. Helps to know the **philosophical essence** of Indian political system.

KM Munshi, member of the drafting committee of constituent assembly describes preamble as the **horoscope of the constitution**.

1. horoscope is a document that tells about the **time of the birth of person**,
2. It tells us about the **nature and characteristics** of person
3. And makes **prediction about the future** of person.
4. It also talks about the **direction in which a person should move** so as to prosper and progress.
5. It also **warns the individuals against any incorrect step** that mite lead to his doom. It implicitly, **serves as a check** on his movements and derailment.

Similarly, preamble serves as the political horoscope of the country.

1. Tells about the **time and adoption of constitution** of India. Adopted on 26th November 1949.
2. Like horoscope, ideals of **preamble tell about the nature of Indian polity**. From this point of view India emerges as secular, democratic, republic
3. Values of **justice, liberty, equality and fraternity guide Indian political system**.
4. Horoscope tells about the future of country, similarly it tells **the direction towards which future of political system should move**.
5. Indian political system should move in such a way that ideals in the preamble should come into existence.
6. It implicitly warns and keep a check that any derailment from these ideals might bring chaos and disorder of the country.

Hence, we can call preamble as the horoscope of the constitution.

Preamble is like a lighthouse.

- Function of lighthouse is to throw light in darkness.
- Similarly, preamble in the constitution is treated by the Indian judiciary as **lighthouse**.
- In **berubari case**, **preamble is “a key to open the minds of framers of the Constitution”** which may show the general purposes for which they made the several provisions in the Constitution but nevertheless the Preamble is not a part of the Constitution.
- Can throw **light whenever there is lack of clarity with the provisions of the constitution**.
- Aids the legal interpretation of the constitution and so treated as lighthouse.

Preamble is a keynote to Indian constitution.

- keynote means the most important part.
- It also means brief summary.
- **Ernest barker** has praised Indian preamble in the opening of his famous book ‘**the principles of social and political theory**’.
- According to him, Indian preamble **summarises his entire political philosophy** in few words.
- Preamble is most important aspect of Indian constitution to understand essence of Indian political system.
- Outlines the ideals, nature, objectives of Indian polity.
- Help us to know the philosophical essence of Indian political system.
- Also write significance of preamble.

Preamble reflects the Objective Resolution of Pt. Nehru adopted by constituent assembly on **January 22, 1947**.

Whether preamble part of the constitution??

- **Theoretically**, preamble treated as an **ornamental part rather than essential part** of constitution.
- Acc to **sartori, constitution is a power map**.
- Theory of constitution tells that the basic purpose of constitution is to tell about the location of power to the flow of power in the political system.
- Customary to have preamble in the constitution. First began with US constitution.

Debate in the Indian constitution

Whether preamble is part of Indian constitution or not.

View of supreme court – Berubari case

- **Supreme Court** took traditional approach in Berubari case, 1960
- Supreme Court held that
 1. **Preamble not a part of the constitution.**
 2. It is a “key to open the mind of framers” may show general purposes for which they made several provisions in the constitution but is not part of the constitution.

Changed this opinion in Keshavananda Bharti case 1973.

Views of petitioner

- Preamble not part of constitution. Preamble can't be amended.

Views of Supreme Court

1. Preamble to the Constitution of India is **a part of Constitution**
2. The Preamble is **not a source of power** nor a source of limitations. Can't prohibit explicit powers of different branches.
3. The Preamble has a **significant role to play in the interpretation of statues**, also in the interpretation of provisions of the Constitution.

To be noted :

- Preamble **not a justiciable part**. Cant be enforced in the court of law automatically.

In Bommai case -

1. **Preamble is the basic structure of the constitution.**

PRINCIPLES OF the PREAMBLE

1. Independent and Sovereign:

- **Popular sovereignty**- constitution of India, not a gift of British parliament, but ordained by people of India through their representatives in sovereign constituent assembly.

- Sovereignty means **independent authority of state**. State has power to legislate on any sub. Not subject to control of any other state or external power.
- It uses the word ' we the people of India

Sovereignty

- India is a sovereign nation
- Sovereignty is the most important attribute of any nation state.
- This is the basis we demarcate between independent nation and colonies.
- Ideal of sovereignty expressed in the const shows India possess autonomy in sphere of decision making.
- Sovereignty is always a diluted concept.
- In contemporary times with the emergence of globalisation and liberalisation, concept of sovereignty doesnot exist in the ideal sense.
- Still the government of India is trying to achieve what is possible in contemporary context.

2. Republic

- Source of all authority is people of India.
- India ceased to be dominion and declared herself republic since making of the constitution in 1949. It Means government of people and for the people.

3. Fraternity

- To generate spirit of brotherhood.
- Fraternity not confined to bounds of national territory. Promotes world peace and security.

Justice

- **Economic justice**- elimination of poverty not by expropriation of those who have, but by multiplication of national wealth and resources and equitable distribution of resources.
- Aims at welfare state and establishing economic democracy.
- **Social justice**- fundamental right. To remove social imbalance by looking after interest of different groups. Establishes welfare state.

Liberty

- Mentions individual rights as freedom of thought, expression, belief, faith, and worship. and guaranteed against all authorities of state by part3

Equality

- 1. Civic equality**- guaranteeing certain rights to each individual meaningless unless all inequality is banished from social structure and each individual is assured equality of status and opportunity for development of him best.
 - Make all discriminations against individuals on basis of caste, race, religion, sex or plc of birth illegal.
 - Abolishing untouchability, opening public spaces to all, guaranteeing equality before all.
- 2. Political equality**- universal adult franchise. (Article.326)
 - no person discriminated on the basis of religion, caste, sex , creed in general electoral roll. (Article. 325).
- 3. Fraternity**
 - ideal of unity buttressed by adding words '**and integrity**' by **42nd amendment act, 1976**.
 - Need to infuse spirit of brotherhood.
- 4. Dignity of Individual**
 - **Fraternity can't be installed unless dignity of each individual is maintained.**
 - All men n women have equal right to adequate means of livelihood. Article-39.
 - Just and humane conditions of work. Article- 42.
 - Decent standard of living and full enjoyment of leisure and social and cultural opportunities Article-43.
 - Supreme Court has held right to dignity fundamental right.

All three to be secured and protected with social justice and economic empowerment.

Socialism

- Goal envisaged by the constitution is that of welfare state and establishment of socialist state.

- At **Avadi session** in 1955, congress established socialistic pattern of society.
- National leaders like Nehru, Gandhi, Ambedkar has always felt there is no political democracy without social and economic democracy.
- But for India, ideal of liberty was also imp.
- Adopted democratic socialism.
- No revolutionary socialism, otherwise bloodshed.
- **Nehru gave concept of mixed economy.**
- Some people believe goal of socialism has been compromised
- India adopted new economic policy.
- Till 1992, trend had been socialistic pattern towards socialist state bringing industries and private enterprises under state ownership and management and carrying on trade and business function as state function.
- Goal of Indian polity is socialism ensured by inserting word socialist by **42nd amendment act 1976.**
- To eliminate inequality of income, status and standards of life and to provide decent standard of living to the working people.
- For upliftment of poor. India has own brand of socialism. Instead of total nationalisation of all property in industry, envisages mixed economy
- Aims at offering equal opportunity to all and abolition of vested interests.
- From 1992 onwards trend now away from socialism to privatisation
- this criticism meant correct. Emphasis on inclusive growth .food security missions, NREGA.
- goals remain the same but strategies have been modified.

Secularism

Meaning of secularism

- Term emerges from the latin word 'secularist' which means temporal or non spiritual or this worldly.
- a process which shows progressive retreat of religion from public sphere.
- emerged as result of reformation movement.
- protestant religion has established that religion is a personal affair.
- it comes within private sphere.
- secularism, defined by west, is strict separation of religion and politics for sake of individual liberty and equality.

India adopted secularism

- Secular word inserted by **42nd amendment 1976.**
- It is basic structure of constitution.
- Fundamental rights of all citizens included right to religion article 25-28, guarantees to each individual to profess, practice and propagate religion.
- Liberty of belief faith, faith and worship.
- state protects all religion equally

Features of secular state

- Different from theocratic state.
- In theocracy, official alliance between religion and politics exist.
- In India state does not have any official religion.
- does not uphold any state religion.
- Has no religious head.
- Does not follow preferential policy towards particular religion.

Criticisms

- Use of religion symbols are allowed.
- India does not have any uniform code of conduct.
- Suffer from communal riots.
- Many human rights activists feel, minorities are not adequately represented.
- Indian ideal of secularism does not match dictionary meaning of secularism.
- Gives special rights to minorities.
- Some people call it **pseudo secularism.**

Positive features

- India adopts western ideal of secularism, but incorporates its own vision of secularism.
- In **SR bommai case** established that **secularism is the basic structure of constitution**.
- For Nehru, secularism, necessary for progress, nation building.

S Radhakrishnan said

In Indian context, western model of secularism not appropriate. Cant reject relevance of religion from life of Indians.

1. **Equal status** is given to all religion.
2. State **doesnot have any official religion**.
3. No religion is given special privilege.
4. No person suffer from any disability arising due to religion.

Views of K.M Pannikar

- Every basis to call India a secular state.
- **Basis of political institution is socio- economic** and not religion.
- Distributive policies not based on religion.
- No discrimination on basis of faith.

Rajiv Bhargava.

- secular state disconnected from religion at Three levels
1. at level of ends
 2. at level of institution
 3. at level of law and public policy.

Acc to him, secular state may follow Three sets:

1. policy of exclusion
2. policy of equidistant
3. policy of strict neutrality

In Indian context state follow the policy of **principled distance**.

- At times India criticized as pseudo secular or minoritism because it gives special protection to minorities.
- Criticism can't be accepted because it is necessary to give special protection to minorities.
- In the absence of such protection, it will become an excuse for imposing majority culture n norms.

India's constitutional secularism

1. Include cultural rights of minorities.
2. Funding of educational institutions, cultural of indigenous, linguistic rights, legal pluralism, affirmative action for marginalized people.
3. Public holidays that bestow official recognition to minority religions, flexible dress codes, sensitivity to history.

Indian model.

1. multiple religions are not extra.
2. there is the official and public recognition granted to religious communities.
3. commitment to multiple values – liberty or equality, peace and tolerant.
4. doesnot erect wall of separation between state and religion. allows state to intervene in religions to help or hinder them. Involves granting aid to educational institutions, interfering in socio- religious institutions that deny equal dignity and status to members of their own religion or those of others for eg: ban on untouchability, and obligation to allow everyone irrespective of caste to enter temples . he calls this as **principled distance**.
5. intervene to abnegate violence and protection of basic human rights

Views of Bipan Chandra

- long term tendency is that Indian society has reflected secular values.
- Secularism is not a matter of choice but a matter of necessity.
- In a plural heterogenous society Indian state has to adopt policy of secularism, otherwise not possible to move on path of nation building.
- Indian secularism is unique. It is based on circumstances at the time of independence.
- From pragmatic point of view, this is the best possible workable model.

Criticism

Scholars **bhiku parekh**, **will kymlicka**, concept of universal citizenship is color blindness. We have to give recognition to community rights. **Will kymlicka** talks about special cultural rights to minorities.

Views of Partha Chatterjee

- Indian concept of secularism creates opportunity for intervention of state and religion and **possibility of political use of religion.**

Views of TN Madan.

- Failure of secularism is nature of society. Society is traditional whereas secularism is modern idea.

Prakash Chandra Upadhyay

- Calls **Indian secularism as majoritarianism.**
- He describes majoritarianism where secularism is subordinated to nationalism of Hinduism.
- Whether be it Gandhis ramrajya, or refusal to adopt uniform civil code
- Sarva dharma sambhava have created hegemonic majoritarianism which has prevented India's democracy from truly representative.

Amartya sen in his article threats to secular India writes that :

- threats to secularism has cm from:
 1. **communal fascism** – attack on ayodhya, Bombay riots are case in point. they thrive when political parties tolerate or appease them.
 2. **sectarian nationalism**- when each sect considers themselves superior while the other is inferior.
 3. **militant obscurantism**- happens because of low level of education which contributes to their gullibility.
 4. **democracy.**
 - Not only political but also social.
 - democratic society infused with justice, liberty, equality and fraternity.
 - no agencies of direct control like initiatives and referendums
 - **parliamentary democracy.**
 - **political justice- universal adult franchise.** Every five years members of legislatures of union n state shall be elected by entire adult population 'one man one vote'.
 - equal opportunity to men and women irrespective of their caste and creed in matter of public employment.
- Members of muslim and Christian community as a rule are included in council of ministers of union and states, supreme court, even diplomatic reservations without any constitutional reservation.

Democratic society

- Democratic republic stands for the good of all people embodied in concept of welfare state. Included in directive principles of state.
 - **economic democracy**- to eliminate gross inequalities. Equal opportunity for work.
 - **social democracy**- no discrimination on the basis of caste. Untouchability has been prohibited.
 - social and economic democracy foundation of political democracy.

Fundamental duties.

- to uphold sovereignty, unity and integrity of nation
- To maintain secularism and common brotherhood.
- Inserted Article 51A laying down 10 fundamental duties by constitution 42nd amendment act, 1976.

Conclusion

- Combining political, social and economic democracy with equality and fraternity, preamble seeks to establish what mahatma gandhi describes as '**India of my dreams**'